REMARKS

1. In response to the Office Action mailed November 12, 2009, Applicants respectfully request reconsideration. Claims 139, 140, 144-150, 153, 155-162, 164-171 and 173-180 were last presented for examination. In the outstanding Office Action, all claims were rejected. By the foregoing Amendments, claims 139, 156, 165 and 174 have been amended, and no claims have been cancelled or added. Thus, upon entry of this paper, claims 139, 140, 144-150, 153, 155-162, 164-171 and 173-180 will be pending in this application. Of these thirty-four (34) claims, 4 claims (claims 139, 156, 165, and 174) are independent.

2. Based upon the above Amendments and following Remarks, Applicants respectfully request that all outstanding objections and rejections be reconsidered, and that they be withdrawn.

Claim Objections

3. The Examiner has objected to claims 139, 156 and 165 for various formalities. Specifically, the Examiner determined that line 11 of claim 139 should be "so as to perform," rather than "so as to to perform." The Examiner also determined that claim 156, line 10 should be "or customized on the clinician" rather than "or customized one the clinician." Finally, the Examiner determined that claim 165, line 14 should be "tests, wherein" rather than "tests, , wherein." Applicants thank the Examiner for identifying these errors.

4. Applicants have amended claims 139, 156 and 165 as suggested by the Examiner. As such, Applicants respectfully request that the above claim objections be withdrawn.

Claim Rejections under 35 U.S.C. § 112, Second Paragraph

5. The Examiner has rejected claims 174-176 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner contends that claim 174 is vague because the claim erroneously specifies that the tests are performed both independent of, and substantially independent of, the clinician subsystem. Applicants thank the Examiner for identifying this error in claim 174.

6. Applicants have amended claim 174 to clarify that the "tests" are performed "substantially-independent" of the clinician subsystem, and not independent of the clinician subsystem. As such, Applicants respectfully request that the rejections under 35 U.S.C. §112 be reconsidered, and that they be withdrawn.

Claim Rejections under §102 Givens

7. The Examiner rejects claims 139, 140, 144, 147-150, 155, 156, 159-162, 164, 165, 168-171, 173, 174 and 178 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,916,291 to Givens et al., (hereinafter, "Givens"). Givens is directed to a system for performing interactive diagnostic hearing tests over a computer network in a manner that satisfies regulatory or certification guidelines. (*See*, Givens, col. 2, lns. 18- 56.) That is, Givens is directed to standardized methods implemented by a clinician to remotely assess and certify the hearing loss of a patient. (*See*, Givens, col. 2, lns. 18- 56.)

8. In Givens, the tests "use a computer network to allow interaction between a test administration site and one or a plurality of remote ('local') patient sites." (*See*, Givens, col. 8, lns. 57-61.) Specifically, the "test is relayed from the test administration site to a desired patient or local site through the use of a computer network." (*See*, Givens, col. 8, ln. 63- col. 9, ln. 15.) The tests are then administered by the clinician in a manner that allows "interaction (typically one or more of a non-verbal, verbal, and/or visual communication interaction either one way or two way) between the user [patient] and the clinician during at least a portion of administration of the test." (*See*, Givens, col. 9, lns. 15-20.)

9. Furthermore, "the hearing test can be performed such that the hearing tones (frequency and decibel level) are generated locally to the patient in response to commands selecting the desired tone/level which are transmitted from the expert or test administration site to the local site via the computer network" (*See*, Givens, col. 9, lns. 35-59.) "In turn, the local system, based on the received or relayed commands, generates the tone and controls the levels output to the user/patient locally." (*See*, Givens, col. 9, lns. 43-47.) The patient's response to each of the hearing tones can be transmitted to the remote administration site where it can be considered and evaluated so that "the clinician can adjust testing parameters… based on the patient's

response during the testing procedures." (*See*, Givens, col. 9, lns. 47-59.) The clinician can "(a) select or adjust the tone transmitted to the patient; (b) repeat one or more of the tones or frequencies; and/or (c) render a diagnostic evaluation." (*See*, Givens, col. 9, lns. 47-59.)

10. In summation, Givens is directed to a system that allows a clinician to remotely perform a series of tests that assess a patient's level of hearing loss. The clinician continually adjusts, in real-time, the tones delivered to the patient during the test to obtain an accurate assessment of the hearing loss.

11. For at least the reasons provided below, Applicants respectfully request that Givens fails to expressly or inherently disclose all elements of the claimed invention. As such, Applicants request that the Examiner reconsider and withdrawn the above rejections.

Claim 139

A. Givens Fails to Disclose Selection or Customization of Cochlear Implant After-care Tests

12. In Applicants' response to the Office Action mailed June 11, 2009, (hereinafter, "Applicants' prior response"), Applicants' argued that Givens fails to disclose several elements of claim 139. First, Applicants asserted that Givens fails to disclose a "system for performing after-care of a recipient of a cochlear implant." (*See*, Applicants' prior response, pg. 11, quoting claim 139, emphasis added.) Specifically, Applicants asserted that Givens fails to disclose the a "clinician subsystem" allowing selection or customization of "cochlear implant after-care tests," or a "recipient subsystem" allowing a patient to perform "after-care tests selected or customized on the clinician subsystem." (*See*, Applicants' prior response, pg. 11, quoting claim 139, emphasis added.)

13. In the outstanding Office Action, the Examiner rejected these contentions and asserted that "Applicant has not clearly indicated why the tests of Givens cannot be considered to be after-care tests." (*See*, Office Action, pg. 22.) The Examiner then turns to Applicants' specification and dependent claims for a listing of different items that constitute after-care or "after-care tests." (*See*, Office Action, pg. 22.) The Examiner contends that Givens performs "after-care tests" by pointing specifically to Applicants' claim 178 which recites, in part,

"wherein at least one of the one or more after-care tests comprises a comparison of a measured neural response threshold to a previously measured neural threshold. (*See*, Office Action, pg. 22.) The Examiner contends that such a test is taught at column 4, lines 3-10, and at col. 22, lines 11-35 of Givens. Applicants disagree and assert that the cited sections, as well as the entirety of Givens, fails to disclose an "after-care test" as recited in claim 178.

14. As noted above, the system of Givens requires feedback from the patient in order to operate properly. Generally, the patient interactively responds to the provided tones to identify when a tone is "audible (such as by pressing a switch or button, clicking on the mouse, depressing a key on a keyboard, selecting an active region of a display, or speaking into a speech-recognition based microphone input system)." (*See*, Givens, col. 3, ln. 61- col. 4, ln. 2.) However, Givens states that "[a]lternatively, or in addition thereto, a biotelemetry mode may be used" to determine if a signal is audible without requiring patient interaction. (*See*, Givens, col. 4, lns. 3-21.) In such a "biotelemetry mode" the "local device measures middle ear pressure, compliance characteristics, changes and/or distortion product emission levels." (*See*, Givens, col. 4, lns. 3-21.) The "biotelemetry measures can be obtained with tympanometry as well as the measurement of otoacoustic emissions associated with cochlear hair cell responses in the ear." (*See*, Givens, col. 4, lns. 3-21.)

15. In the outstanding Office Action, the Examiner relies on this "biotelemetry mode" of Givens as evidence that the tests of Givens may be considered "after-care tests." (*See*, Office Action, pgs. 22-23.) However, as would be apparent from the above, the sections of Givens relied upon by the Examiner (ie. column 4, lines 3-10, and at col. 22, lines 11-35) do not describe any tests whatsoever. Rather, the sections cited by the Examiner only describe one example of how feedback may be obtained from the patient.

16. Because the "bio-telemetry mode" relied upon the Examiner is merely a method of providing feedback to the audiologist, and does not equate to any type of testing, Applicants submit that Givens fails to disclose "cochlear implant after-care tests."

17. Furthermore, as noted above, the only test disclosed by Givens is a hearing test in which one or more tones are provided to the patient and patient feedback is gathered to determine whether the patient was able to hear the tone. (*See*, Givens, col. 9, lns. 35-59.) As would be

appreciated such hearing tests are preliminary tests used to determine if a patient is suffering from hearing loss, and which are designed to allow a clinician to determine if the patient is in need of a hearing aid or other hearing prostheses, such as a cochlear implant. Because these hearing tests are so preliminary in nature, the tests would be performed long before a patient would receive a cochlear implant. There would be no reason to assess the hearing loss of a cochlear implant recipient after implantation of the implant because such patients would have already been determined to be suffering hearing loss. Therefore, for at least this additional reason, Applicants submit that Givens entirely fails to disclose "cochlear implant after-care tests."

18. Because Givens fails to disclose "cochlear implant after-care tests," Applicants submit that Givens fails to disclose any type of system that is configured to receive inputs "that at least one of select or customize one or more after-care tests" as recited, in part, in claim 139. Additionally, Applicants submit that Givens fails to disclose any system which is configured to "receive the one or more after-care tests, and… perform the one or more after-care tests selected or customized on the clinician subsystem." (*See*, Givens, col. 2, lns. 18- 56.)

B. Givens Fails to Disclose A System Configured To Communicate with a Cochlear Implant

19. Applicants claim 139 further recites that the "recipient subsystem is configured to communicate with the cochlear implant so as to perform the one or more after-care tests… substantially independent of the clinician subsystem." (*See*, claim 139, above.) As detailed above, the system of Givens performs hearing tests to assess a patient's hearing loss. (*See*, Givens, col. 8, ln. 63- col. 9, ln. 15.) Specifically, the testing systems of Givens delivers audible tones to the patient, and does not operate with any hearing device, let alone a cochlear implant.

20. Applicants respectfully remind the Examiner that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (*See*, MPEP §2131.01, quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987).) The MPEP makes it clear that for a *prima facie* rejection under 35 U.S.C. §102, "[t]he identical invention must be shown in as complete detail

as is contained in the… claim." (*See*, MPEP §2131.01, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989); emphasis added.) Because Givens fails to disclose that the system may be "configured to communicate with… [a] cochlear implant," Applicants submit that Givens fails to disclose "each and every element" recited in claim 139.

C. Givens Fails to Disclose A System Configured To Perform Tests Substantially Independent of The Clinician Subsystem

21. Applicants claim 139 further recites that the "recipient subsystem is configured to perform the one or more after-care tests… **substantially independent** of the clinician subsystem." (*See*, claim 139, above; emphasis added.) It is clear from Givens that the tests discloses therein cannot be performed "substantially independent of the clinician subsystem." Specifically, as explained above, the hearing diagnostic tests of Givens are controlled by the clinician through the patient's remote terminal. (*See*, Givens, col. 8, ln. 63- col. 9, ln. 15.) The clinician uses different types of feedback from the patient to proceed through the test. (*See*, Givens, col. 8, ln. 63- col. 9, ln. 15.) For example, in certain circumstances, verbal feedback from the patient indicates that a delivered tone is or is not audible, and the clinician uses this indication to adjust the next tone to be delivered. (*See*, Givens, col. 8, ln. 63- col. 9, ln. 15.) Therefore, because of this large amount of control required of the clinician, the alleged "recipient subsystem" of Givens is not configured to "perform the one or more after-care tests selected or customized on the clinician subsystem substantially independent of the clinician subsystem" as recited, in part, in claim 139. (Emphasis added.)

22. For at least the above reasons, Applicants assert that Givens does not disclose the system of claim 139 in "as complete detail as contained in the claim." As such, Applicants respectfully request that the rejection of claim 139 under 35 U.S.C. §102(e) be reconsidered, and that it be withdrawn.

Claim 156

23. Applicants' claim 156 is directed to a "method for performing after-care of a recipient of a cochlear implant." (*See*, Applicants' claim 156, above.) The method comprises "receiving one or more inputs… that at least one of select and customize one or more cochlear implant after-

care tests … performing, on the cochlear implant, said one or more after-care tests…" and "wherein the after-care tests are performed by the recipient subsystem substantially independent of the clinician subsystem." (*See*, Applicants' claim 156, above.) For at least the reasons discussed above with reference to claim 139, Applicants respectfully assert that Givens fails to disclose "after-care tests," performing, [the after-care tests] on the cochlear implant," and wherein the tests are performed "substantially independent" of the clinician subsystem. As such, Applicants submit that Givens fails to disclose at least the above elements of claim 156.

Claim 165

24. Applicants' claim 165 is directed to a "computer readable medium comprising computer code instructions which, when executed by a computer system implement a method of performing after-care of a recipient of a cochlear implant." (*See*, Applicants' claim 165, above; emphasis added.) The method comprises "receiving one or more inputs… that at least one of select and customize one or more cochlear implant after-care tests … performing, on the cochlear implant, said one or more after-care tests…" and "wherein the after-care tests are performed by the recipient subsystem substantially independent of the clinician subsystem." (*See*, Applicants' claim 165, above.) For at least the reasons discussed above with reference to claim 139, Applicants respectfully assert that Givens fails to disclose "after-care tests," performing, [the after-care tests] on the cochlear implant," and wherein the tests are performed "substantially independent" of the clinician subsystem. As such, Applicants submit that Givens fails to disclose at least the above elements of claim 165.

Claim 174

25. Applicants' claim 174 is directed to a "system for performing after-care of a recipient of a cochlear implant." (*See*, Applicants' claim 174, above; emphasis added.) The system comprises "means for receiving one or more inputs… at least one of selecting and customizing one or more cochlear implant after-care tests …means for performing, on said cochlear implant, said one or more after-care tests" and "wherein the after-care tests are performed by the recipient subsystem substantially independent of the clinician subsystem." (*See*, Applicants' claim 174, above.) For at least the reasons discussed above with reference to claim 139,

Applicants respectfully assert that Givens fails to disclose "performing, [the after-care tests] on the cochlear implant," and wherein the tests are performed "substantially independent" of the clinician subsystem. As such, Applicants submit that Givens fails to disclose at least the above elements of claim 174.

Claim Rejections under §103 Givens in view of Faltys

26. The Examiner also rejects claims 145, 146, 153, 157, 158, 166, 167, 175-177, 179 and 180 under 35 U.S.C. 103(a) as being unpatentable over Givens in view of U.S. Patent No. 5,626,629 to Faltys et al., (hereinafter, "Faltys"). Without addressing the apparent lack of motivation to combine the cited references, Applicants assert that these rejections are improper because neither Givens nor Faltys, taken alone or in combination, inherently or expressly disclose all elements of the claimed invention.

27. In the outstanding Office Action, the Examiner asserts that "Givens teaches many of the features of the claimed invention," including systems and methods for the selection and customization of cochlear implant "after-care tests," and systems and methods for performing such "after-care" tests. (*See*, Office Action, pg. 10.) However, as explained above with specific reference to claim 139, Applicants have demonstrated that Givens fails to expressly or inherently disclose "after-care tests," a system "configured to communicate with… [a] cochlear implant," and a "recipient subsystem [which] is configured to perform the one or more after-care tests… substantially independent of the clinician subsystem."

28. In Applicants previous response, Applicants argued that Faltys also fails to disclose cochlear implant "after-care tests," and thus cannot disclose that which is missing from Givens. In the outstanding Office Action, the Examiner contends that "Applicant has not clearly indicated why the tests of Faltys cannot be considered to be after-care tests." Applicants disagree with the Examiner's assertion and contend that the tests of Faltys are not cochlear implant "after-care tests." However, regardless of whether Faltys discloses such tests, Applicants assert that neither Givens nor Faltys disclose a "recipient subsystem" configured to "perform the one or more after-care tests selected or customized on the clinician subsystem

substantially independent of the clinician subsystem" as recited, in part, in claim 139. (Emphasis added.)

29. Faltys is directed to a system for fitting or programming a cochlear stimulation system for a patient utilizing objective measurements rather than subjective feedback. (*See*, Faltys, col. 3, lns. 29-47.) In Faltys, the clinician utilizes the fitting system to instruct the cochlear implant system to deliver an electrical stimulation signal to the patient. (*See*, Faltys, col. 5, ln. 52-col. 6, ln. 42.) The fitting system records an objective measurement of the patient's response to the stimulation. (*See*, Faltys, col. 6, lns. 32- col. 8, ln. 23.) Based on the objective measurement, the clinician adjusts the stimulation provided. (*See*, Faltys, col. 6, lns. 32- col. 8, ln. 23.) This procedure is iteratively repeated to determine a patient's threshold and comfort levels. (*See*, Faltys, col. 6, lns. 32- col. 8, ln. 23.) In other words, the system of Faltys requires a clinician to operate the tests, evaluate objective feedback and adjust stimulation signals applied to the patient. (*See*, Faltys, col. 6, lns. 32- col. 8, ln. 23.) Due to this large amount of clinician involvement required, Applicants submit that it is impossible for any element of the system to perform any tests "substantially independent of the clinician subsystem" as recited, in part, in claim 139. (Emphasis added.)

30. Therefore, because neither Givens nor Faltys, taken alone or in combination, disclose at least these elements of the system of claim 139, Applicants assert that the above rejections of claims 145, 146 and 153 under 35 U.S.C. §103 are improper and should be withdrawn.

Claim 156

31. Applicants' claim 156 is directed to a "method for performing after-care of a recipient of a cochlear implant." (*See*, Applicants' claim 156, above.) The method comprises "performing, on the cochlear implant, said one or more after-care tests selected or customized on the clinician subsystem to generate result data indicative of the result of the after-care test, wherein the after-care tests are performed by the recipient subsystem substantially independent of the clinician subsystem." (*See*, Applicants' claim 156, above; emphasis added.) For at least the reasons discussed above with reference to claim 139, Applicants respectfully assert that Faltys fails to disclose at least these elements of claim 156. Therefore, because neither Givens nor Faltys, taken alone or in combination, disclose all elements of the system of claim 156, Applicants

assert that the above rejections of claims 157 and 158 under 35 U.S.C. §103 are improper and should be withdrawn.

Claim 165

32. Applicants' claim 165 is directed to a "computer readable medium comprising computer code instructions which, when executed by a computer system implement a method of performing after-care of a recipient of a cochlear implant." (*See*, Applicants' claim 165.) The method comprises "performing, on the cochlear implant, said one or more after-care tests selected or customized on the clinician subsystem to generate result data indicative of the result of the after-care tests, wherein the after-care tests are performed by the recipient subsystem substantially independent of the clinician subsystem." (*See*, Applicants' claim 165, above; emphasis added.) For at least the reasons discussed above with reference to claim 139, Applicants respectfully assert that Faltys fails to disclose at least these elements of claim 165. Therefore, because neither Givens nor Faltys, taken alone or in combination, disclose all elements of the system of claim 165, Applicants assert that the above rejections of claims 166 and 167 under 35 U.S.C. §103 are improper and should be withdrawn.

Claim 174

33. Applicants' claim 174 is directed to a "system for performing after-care of a recipient of a cochlear implant." (*See*, Applicants' claim 174, above.) The system comprises "means for performing, on said cochlear implant, said one or more after-care tests on the recipient subsystem, to generate result data indicative of the result of the after-care tests, wherein the after-care tests are performed by the recipient subsystem substantially independent of the clinician subsystem." (*See*, Applicants' claim 174, above; emphasis added.) For at least the reasons discussed above with reference to claim 139, Applicants respectfully assert that Faltys fails to disclose at least these elements of claim 174. Therefore, because neither Givens nor Faltys, taken alone or in combination, disclose all elements of the system of claim 174, Applicants assert that the above rejections of claims 175 and 176 under 35 U.S.C. §103 are improper and should be withdrawn.

Claim Rejections under §103 Faltys in view of Alexandrescu

34. The Examiner also rejects claims 139-176 under 35 U.S.C. 103(a) as being unpatentable over Faltys in view of U.S. Patent No. 5,909,497 to Alexandrescu et al., (hereinafter, "Alexandrescu"). Without addressing the apparent lack of motivation to combine the cited references, Applicants assert that these rejections are improper because neither Faltys nor Alexandrescu, taken alone or in combination, inherently or expressly disclose all elements of the claimed invention.

Claim 139

35. As detailed above, Applicants assert that Faltys fails to disclose a "recipient subsystem" configured to "perform the one or more after-care tests selected or customized on the clinician subsystem substantially independent of the clinician subsystem" as recited, in part, in claim 139. (Emphasis added.) Applicants assert that Alexandrescu fails to disclose that which is missing from Faltys.

36. Alexandrescu is directed to an acoustic hearing aid having an interface permitting wireless programming of the signal processor. (*See*, Alexandrescu, col. 1, lns. 49- 59.) Specifically, the programming interface wirelessly receives program codes and translates the codes into a programming language usable by the signal processor of the acoustic hearing aid. (*See*, Alexandrescu, col. 3, ln. 59- col. 4, ln. 19.) The programming is then implemented by the signal processor. (*See*, Alexandrescu, col. 3, ln. 59- col. 4, ln. 19.)

37. Applicants submit that Alexandrescu completely fails to disclose any type of testing, let alone "cochlear implant after-care" testing. Rather, Alexandrescu merely discloses that the hearing aid is capable of receiving and implementing programming codes. Applicants assert that a hearing aid configured to received "programming" is not the same as testing and, as such, Alexandrescu cannot disclose a recipient subsystem configured to "perform the one or more after-care tests selected or customized on the clinician subsystem substantially independent of the clinician subsystem" as recited, in part, in claim 139.

38. Furthermore, Alexandrescu is exclusively directed to a system for providing programs to an acoustic hearing aid. (*See*, Alexandrescu, col. 3, ln. 59- col. 4, ln. 19.) Not only is the

testing of Alexandrescu not equivalent to "after-care of a recipient of a cochlear implant," but the system of Alexandrescu also completely fails to disclose any type of system that is configured to receive inputs "that at least one of select or customize one or more after-care tests" as recited, in part, in claim 139.

39. Therefore, because neither Faltys nor Alexandrescu, taken alone or in combination, disclose at least these elements of the system of claim 139, Applicants assert that the above rejection of claim 139 under 35 U.S.C. §103 is improper and should be withdrawn.

Claim 156

40. Applicants' claim 156 is directed to a "method for performing after-care of a recipient of a cochlear implant." (*See*, Applicants' claim 156, above.) The method comprises "performing, on the cochlear implant, said one or more after-care tests selected or customized on the clinician subsystem to generate result data indicative of the result of the after-care test, wherein the after-care tests are performed by the recipient subsystem substantially independent of the clinician subsystem." (*See*, Applicants' claim 156, above.) For at least the reasons discussed above with reference to claim 139, Applicants respectfully assert that Alexandrescu fails to disclose at least these elements of claim 156. Therefore, because neither Faltys nor Alexandrescu, taken alone or in combination, disclose all elements of the system of claim 156, Applicants assert that the above rejection of claim 156 under 35 U.S.C. §103 is improper and should be withdrawn.

Claim 165

41. Applicants' claim 165 is directed to a "computer readable medium comprising computer code instructions which, when executed by a computer system implement a method of performing after-care of a recipient of a cochlear implant." (*See*, Applicants' claim 165.) The method comprises "performing, on the cochlear implant, said one or more after-care tests selected or customized on the clinician subsystem to generate result data indicative of the result of the after-care tests, wherein the after-care tests are performed by the recipient subsystem substantially independent of the clinician subsystem." (*See*, Applicants' claim 165, above.) For at least the reasons discussed above with reference to claim 139, Applicants respectfully assert that Alexandrescu fails to disclose at least these elements of claim 165. Therefore, because

neither Faltys nor Alexandrescu, taken alone or in combination, disclose all elements of the system of claim 165, Applicants assert that the above rejection of claim 165 under 35 U.S.C. §103 is improper and should be withdrawn.

Claim 174

42. Applicants' claim 174 is directed to a "system for performing after-care of a recipient of a cochlear implant." (*See*, Applicants' claim 174, above; emphasis added.) The system comprises "means for performing, on said cochlear implant, said one or more after-care tests on the recipient subsystem, to generate result data indicative of the result of the after-care tests, wherein the after-care tests are performed by the recipient subsystem substantially independent of the clinician subsystem." (*See*, Applicants' claim 174, above.) For at least the reasons discussed above with reference to claim 139, Applicants respectfully assert that Alexandrescu fails to disclose at least these elements of claim 174. Therefore, because neither Faltys nor Alexandrescu, taken alone or in combination, disclose all elements of the system of claim 174, Applicants assert that the above rejection of claim 174 under 35 U.S.C. §103 is improper and should be withdrawn.

Dependent claims

43. The dependent claims incorporate all the subject matter of their respective independent claims and add additional subject matter which makes them independently patentable over the art of record. Accordingly, Applicants respectfully assert that the dependent claims are also allowable over the art of record.

Conclusion

44. In view of the foregoing, this application should be in condition for allowance. A notice to this effect is respectfully requested.

45. Applicants make no admissions by not addressing any outstanding rejections or basis of rejections. Furthermore, Applicants reserve the right to pursue any cancelled claims or other subject matter disclosed in this application in a continuation or divisional application. Thus,

cancellations and amendments of above claims, are not to be construed as an admission regarding the patentability of any claims.

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Respectfully submitted,

/Michael G. Verga/
Michael G. Verga
Registration No.: 39,410
CONNOLLY BOVE LODGE & HUTZ LLP
1875 Eye Street, NW
Suite 1100
Washington, DC 20006
(202) 331-7111
(202) 293-6229 (Fax)
Attorney for Applicants